IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1319 OF 2005
(For bail)

CRIMINAL APPEAL NO.184 OF 2005
(Against conviction)

Sohan Indrajeet Bashire Applicant
(original Accused no.1)

vs.

1. The State of Maharashtra & Anr. Respondents

Mr.H.K. Prem for the accused-applicant.

Ms.U.V.Kejriwal, Addl. Public Prosecutor for the State.

CORAM : R.M.LODHA &
R.S.MOHITE,JJ.

DATED : 9th March 2005

P.C.

Heard the learned counsel for the accused Sohan Indrajit Bashire and the learned Additional Public Prosecutor for the State.

2. The learned Additional Public Prosecutor did not dispute that the accused-applicant was on bail during the trial. The evidence of PW-1 regarding identification of the accused-applicant suffers from serious flaw. On 11.09.2001 the evidence of PW-1-Mahesh Babubhai Gala was recorded. Though the present accused was present in the Court in pre-lunch session when evidence of PW1 was being recorded, PW-1 deposed

that the person who stabbed deceased Bipin Shah was not present today in the Court. In post-lunch session, however, he stated that the accused-Sohan Indrajit Bashire is the same person who had stabbed deceased Bipin Shah, but while stating so he pointed out towards the other accused-Raju. Besides that the learned Additional Public Prosecutor conceded that the recovery of weapon from the accused-applicant has not been proved.

3. Taking overall facts and circumstances of the case, we are satisfied that the sentence awarded to the accused-applicant deserves to be suspended and he may be released on bail.

4. Hence the order:

ORDER

(i) The accused Sohan Indrajit Bashire is ordered to be released on bail during the pendency of appeal on his furnishing personal bond of Rs.50,000/- and one surety of Rs.20,000/- to the satisfaction of the trial Court.

(ii) Other conditions imposed by the trial

court while granting the bail to the accused during the trial shall remain operative.

5. We clarify that the observations made by us in this order are confined to the consideration of the bail application of the accused-Sohan Indrajit Bashire only.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)